

EXHIBIT 5

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GEOMATRIX, LLC,

Plaintiff,
v.

Case No. 20-13331
District Judge Robert Cleland
Magistrate Judge R. Steven Whalen

NSF INTERNATIONAL,
BIOMICROBICS, INC.,
HOOT SYSTEMS, LLC,
JAMES BELL, and
RONALD SUCHECKI,

Defendants.

DECLARATION OF JON R. STEIGER

Pursuant to 28 U.S.C. § 1746, I, Jon R. Steiger, make the following statements based on personal knowledge, information and belief:


1. I am over eighteen years of age, have personal knowledge of the facts set forth herein, and am competent to testify to the same.
2. I am counsel for Defendant NSF International (“NSF”).
3. In June 2020, Plaintiff Geomatrix LLC (“Geomatrix”) and NSF entered into the Tolling Agreement attached to this Declaration as Exhibit A.
4. In September 2020, Geomatrix and NSF entered into the First Amendment to Tolling Agreement attached to this Declaration as Exhibit B.
5. Under the Tolling Agreement and First Amendment to Tolling Agreement, the parties agreed that specific timing defenses, including statute of

limitations defenses, would be tolled for the period June 29, 2020 through November 30, 2020, only.

6. The Tolling Agreement and First Amendment to Tolling Agreement did not toll any timing defenses prior to June 29, 2020 or after November 30, 2020.

I declare under penalty of perjury that the foregoing is true and correct based on my personal knowledge, information, and belief.

Executed on: March 10, 2021



Jon R. Steiger

EXHIBIT A

TOLLING AGREEMENT

This Tolling Agreement (“Agreement”) is entered into as of June 29, 2020 (the “Effective Date”) by and among Geomatrix LLC (“Geomatrix”) and NSF International (“NSF”), referred to individually as “Party” and collectively as “the Parties”.

WHEREAS, the Parties are engaged in discussions regarding possible claims, setoff(s), and/or other relief related to Geomatrix’s wastewater treatment and dispersal products; and

WHEREAS, the Parties desire to maintain all of their rights relating to these matters and suspend the running of any applicable statutes of limitations and other Timing Defenses (defined below) for the duration of this Agreement.

In consideration of their mutual agreements, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. As used in this Agreement, the following terms shall have the following meanings:

(a) “Expiration Date” shall mean September 30, 2020. The Parties may agree to an extension of the Expiration Date by an amendment to this Agreement or by a separate written agreement signed by the Parties.

(b) “Timing Defenses” shall include, among other things, any defenses of any kind that any of the Parties may have based upon (1) any statute of limitations; (2) laches; (3) any statute of repose; (4) any contractual limitation period; and/or (5) any failure to institute or commence litigation or other legal proceedings within some specified period, before a specified date, or before the happening of the specified event and any alleged failure to comply with any alleged prerequisite to suit such as, but not limited to, notice or a demand for cure.

2. The Parties stipulate, covenant, and agree that all Timing Defenses applicable to their claims shall be tolled as of the Effective Date, and shall cease to run up through the Expiration Date (and any extension thereof). The Parties agree not to assert, plead, or raise in any fashion, whether by answer, motion, or otherwise, any Timing Defenses based on the passage of time

between the Effective Date and the Expiration Date (or any extension thereof).

3. Unless earlier terminated per the terms of this Agreement, the tolling of Timing Defenses shall expire at 11:59 p.m. on the Expiration Date, and all Timing Defenses shall begin to run again on the next business day.

4. Either Party may withdraw from this Agreement by providing written notice to the other Party. This Agreement shall expire 72 hours after receipt of such written notice.

5. All other claims and defenses of the Parties are preserved, with the only limitation being those defined above.

6. If any provision of this Agreement is deemed unenforceable, it shall be severed from the Agreement and the remaining portions of this Agreement shall remain in full force and effect.

7. This Agreement does not constitute an admission of wrongdoing, actionable conduct or liability on the part of any of the Parties, and does not constitute any admission or acknowledgment on the part of any of the Parties that any statute of limitations or Timing Defense is applicable to any of their possible claims or defenses.

8. This Agreement contains the entire agreement between the Parties regarding tolling of the Parties' possible claims and defenses. No statement, promise or inducement made by any of the Parties, or any agent of any of the Parties, related to the tolling of Timing Defenses, that is not set forth in this Agreement shall be valid or binding. This Agreement may not be enlarged, modified, or altered except in a writing signed by the Parties.

9. This Agreement shall be governed by the laws of the State of Michigan, without regard to Michigan's conflicts of law analysis. Any dispute relating to this Agreement shall be

brought and heard in the United States District Court for the Eastern District of Michigan or the Circuit Court for the County of Washtenaw, Michigan.

10. The Parties represent and warrant that they understand the nature and effect of this Tolling Agreement.

11. The signatories below affirmatively represent that they have the authority to sign this Agreement on behalf of his or her respective party and the Parties are bound by those signatures.

SO AGREED:

Geomatrix LLC

By: 

Printed: Jason Henderson

Its: Vice President & General Counsel

Dated: 6/29/20

NSF International

By: 

Printed: Julie Timmer

Its: Vice President & Chief Legal Officer

Dated: June 29, 2020

EXHIBIT B

**FIRST AMENDMENT TO
TOLLING AGREEMENT**

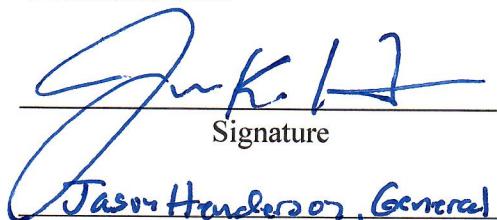
This First Amendment by and between Geomatrix LLC (“Geomatrix”) and NSF International (“NSF”) amends the Tolling Agreement (bearing an Effective Date of June 20, 2020) as follows:

The “expiration date” in Section 1(a) of “September 30, 2020” is changed to “November 30, 2020”.

All other terms and conditions of the Tolling Agreement remain unchanged

IN WITNESS WHEREOF, duly authorized representatives of the parties have signed this First Amendment.

For
Geomatrix LLC



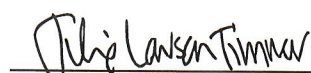
Signature
Jason Henderson, General Counsel

Printed Name and Title

9/16/20

Date

For
NSF International



Signature
Julie Timmer, VP & CLO

Printed Name and Title

14 September 2020

Date